

Fiscal Note

State of Alaska
2021 Legislative Session

Bill Version:	CSSB 14(JUD)
Fiscal Note Number:	1
(S) Publish Date:	3/5/2021

Identifier: SB014CS(JUD)-JUD-ACS-02-25-21
Title: SELECTION AND REVIEW OF JUDGES
Sponsor: SHOWER
Requester: Senate Judiciary Committee

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2022 Appropriation Requested	Included in Governor's FY2022 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2022	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2021) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2022) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? 0
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? 0
If yes, by what date are the regulations to be adopted, amended or repealed? n/a

Why this fiscal note differs from previous version/comments:

Updated for Senate Judiciary Committee substitute.

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FISCAL NOTE ANALYSIS

STATE OF ALASKA
2021 LEGISLATIVE SESSION

Analysis

The Senate Judiciary Committee substitute for Senate Bill 14 would make substantial changes to the way judges for the Court of Appeals and district court are appointed, and the way magistrates are appointed and reviewed. The changes will impact the court system's operations in numerous areas, including changing which individuals serve as judges and magistrates. The changes are also expected to result in delays in filling vacant judgeships and magistrate positions, and the court system expects that it will experience some fiscal impact due to the adaptations it will need to make to address those vacancies.

CSSB 14 is expected to cause a number of judicial seats and magistrate positions to be unfilled for periods of months and potentially up to a year and a half or more. When that occurs, the court system expects that it will need to hire pro tem judges and/or acting district court judges to take on the tasks that a seated judge or hired magistrate would do, so that the court can continue to fulfill its mission.

Several aspects of the bill are expected to lead to delays in seating new judges and magistrates. For example, sections 10 and 11 remove the timeframe within which the governor must appoint a person to fill the Court of Appeals, district court, and magistrate vacancies. With no deadline, it is expected that at least some of the positions will be unfilled for some time period. In addition, sections 10 and 11 provide that after the governor does appoint a person to one of those positions, an appointee may not serve in the position until after legislative confirmation. If a position becomes vacant in January of 2022, the appointment process plus confirmation would not occur until about May of 2023, leading to a seat being unfilled for nearly 18 months. Other aspects of the bill are also expected to lead to delays in filling these positions, such as the ability for a governor to have the Judicial Council conduct a "second round" of reviews and applications and recommendations for these vacancies.

To handle the incoming and ongoing caseload when judge and magistrate positions are unfilled, the court system would need to hire and retain pro tem judges or acting district court judges. In some court locations, the cost of an acting district court judge exceeds even the cost of a seated judge, since the acting judge would be reimbursed housing and travel costs (by definition, acting judges and pro tem judges are in a temporary status). Further, using pro tem and acting judges, though very useful, is a less efficient way to handle cases; at times, there must be two persons overlapping to avoid problems, and the court system would need to provide each new "temporary" person with training, supplies, computer licenses, administrative transitional support, and similar items that require fiscal resources.

Sections 1-9 of CSSB 14 require magistrates to run in periodic retention elections, and sections 11 and 12 provide that magistrates would undergo the same application and appointment procedure as Court of Appeals and district court judges. The court system expects that these requirements for appointment and retention elections will mean that the number of people interested in applying for magistrate positions will decrease, with some magistrate vacancies attracting very few applicants or none at all. The Council would therefore need to open a new recruitment period and begin its process anew, which will mean further delay. To avoid closing rural court locations, the court system anticipates again that it will need to retain acting district court judges to perform the work that the magistrate would perform if the position were filled. The court system establishes the salary schedule for magistrates and pays them according to the rules established by the administrative director, and if fewer individuals apply for or remain in these positions, the court would potentially need to increase compensation to attract qualified candidates. The certainty and cost of doing this is unknown at this time.

The court system therefore submits this indeterminate fiscal note.